

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA

- v. -
RAFAEL SANTOS,
Defendant.

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DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>5-25-21</u>

: PRELIMINARY ORDER OF
FORFEITURE AS TO
SUBSTITUTE ASSETS

: 12 Cr. 675 (JGK)

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WHEREAS, on or about August 29, 2012, RAFAEL SANTOS (the "Defendant"), was charged in a three-count Information, 12 Cr. 675 (JGK) (the "Information"), with conspiracy to steal United States Treasury checks, in violation of 18 U.S.C. § 371 (Count One); theft of Government funds, in violation of 18 U.S.C. § 641 and 2 (Count Two); and aggravated identity theft, in violation of 18 U.S.C. §§ 1028A(a) (1), 1028A(b) (Count Three);

WHEREAS, on or about August 29, 2012, the Defendant pled guilty to Counts One through Three of the Information and admitted the forfeiture allegation, pursuant to a plea agreement with the Government, wherein the Defendant agreed to forfeit a sum of money equal to at least \$34,000 in United States currency, representing the amount of proceeds of the cashing of fraudulently obtained Treasury checks;

WHEREAS, on or about January 21, 2015, the Court entered a Consent Preliminary Order of Forfeiture/Money Judgment (the "Order of Forfeiture"), imposing a money judgment against the Defendant in the amount of \$34,000 (the "Money Judgment"), (D.E. 18);

WHEREAS, to date, \$31,600 of the Money Judgment remains unpaid;

WHEREAS, as a result of acts and omissions of the Defendant, the United States has not been able to locate assets traceable to the proceeds of the Defendant's offenses, despite the exercise of due diligence in investigating the assets of the Defendant;

WHEREAS, the Government has identified the following specific assets in which the Defendant has an ownership interest:

- a. \$2,115 in United States currency seized from the Defendant on March 19, 2012 at the time of the Defendant's arrest; and
- b. any and all funds up to \$29,485 in United States currency on deposit in JPMorgan Chase Bank Account Number 523690167 held in the name of Rafael Santos

(a. and b., together, the "Substitute Assets"); and

WHEREAS, the Government is seeking the forfeiture of all of the Defendant's right, title and interest in the Substitute Assets.

NOW IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. All of the Defendant's right, title and interest in the Substitute Assets is hereby forfeited to the United States of America, for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n).

2. Upon entry of this Preliminary Order of Forfeiture of Substitute Assets, the United States Marshals Service (or its designee) is hereby authorized to take possession of the Substitute Assets and to keep them in its secure, custody and control.

3. Upon entry of a Final Order of Forfeiture, the Substitute Assets shall be applied towards the satisfaction of the Money Judgment entered against the Defendant.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the

Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the official government internet forfeiture site, www.forfeiture.gov, notice of this Preliminary Order of Forfeiture as to Substitute Assets and provide notice that any person, other than the Defendant in this case, claiming an interest in the Substitute Assets must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The notice referenced in the preceding paragraph shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Assets, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the Substitute Assets and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. The United States may also, to the extent practicable, provide direct written notice to any person, other than the Defendant, known to have an alleged interest in the Substitute Assets, as a substitute for published notice as to those persons so notified.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Substitute Assets, pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture as to Substitute Assets, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

9. The Clerk of the Court shall forward four certified copies of this Preliminary Order of Forfeiture as to Substitute Assets to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York, 10007.

Dated: New York, New York
May 25, 2021

SO ORDERED:


HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

In addition, the Government shall request J.P. Morgan Chase to provide notice of this Order to the account holder of the J.P. Morgan Chase Bank Account held in the name of Rafael Santos at issue.

so ordered.

5/25/21 U.S.D.J.